

LANCE R. LEFLEUR
DIRECTOR



ROBERT J. BENTLEY
GOVERNOR

Alabama Department of Environmental Management
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July 21, 2015

Mrs. Heather McTeer Toney
Regional Administrator, EPA Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Dear Mrs. McTeer Toney:

On January 8, 2008, the Alabama Department of Environmental Management (ADEM) submitted to EPA Region 4 a State Implementation Plan (SIP) revision which included a correspondence dated June 22, 2007, pertaining to actions the State had taken to satisfy section 110(a)(2)(D)(i) of the Clean Air Act (CAA) as it relates to the 1997 8-hour ozone, 1997 annual PM_{2.5} and 2006 24-hour PM_{2.5} National Ambient Air Quality Standards. Section 110(a)(2)(D)(i) pertains specifically to the transport portion of Infrastructure SIPs.

ADEM explained in the letter that the State's SIP revision submitted on March 7, 2007, to implement the Clean Air Interstate Rule (CAIR) addressed the State's interstate transport obligations pursuant to the CAA. Subsequently, EPA replaced CAIR with the Cross State Air Pollution Rule on January 1, 2015.

Accordingly, the declarations made as part of the letter in the January 8, 2008, SIP revision, are now unnecessary; therefore, ADEM wishes to withdraw the June 22, 2007, correspondence portion of the January 8, 2008, SIP revision.

If you have any questions, please call Ron Gore at 334-271-7868.

Sincerely,

A handwritten signature in cursive script that reads "Lance R. LeFleur".

Lance R. LeFleur
Director

LRL/ADH/bdc

cc: Beverly Banister, EPA

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March 1, 2013

Ms. Gwendolyn Keyes Fleming
Regional Administrator
Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-3104



Dear Ms. Fleming:

On May 13, 2009, the Alabama Department of Environmental Management (ADEM) submitted to the U.S. Environmental Protection Agency (EPA), an attainment demonstration for the Birmingham annual PM_{2.5} nonattainment area. On May 2, 2011, prior to EPA taking action on the attainment demonstration, ADEM submitted a redesignation request and maintenance plan for the area based on 2008 - 2010 monitoring data, which showed that the area had attained the annual PM_{2.5} standard. EPA approved the redesignation request and maintenance plan on January 22, 2013 (78 FR 4341).

The approval of the redesignation request and maintenance plan and the subsequent redesignation of the Birmingham annual PM_{2.5} nonattainment area to attainment renders the need for EPA to act on the attainment demonstration unnecessary; therefore, ADEM asks that this letter serve as its request to withdraw the attainment demonstration.

If any further actions are required on behalf of ADEM for EPA to fulfill this request, please contact Ron Gore of my staff at 334-271-7868.

Sincerely,

A handwritten signature in cursive script that reads "Lance R. LeFleur".

Lance R. LeFleur
Director

LRL/RWG/DH/bdc

cc: Beverly Banister, EPA Region 4

Lynorae Benjamin, EPA Region 4

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October 9, 2014

Ms. Heather McTeer Toney
Regional Administrator, EPA Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

RE: Withdrawal of the PM_{2.5} SILs and Interpollutant Offset Ratios from the State of
Alabama's State Implementation Plan Revision request dated May 2, 2011

Ms. Toney:

On May 2, 2011, the Alabama Department of Environmental Management (ADEM) submitted a State Implementation Plan (SIP) revision to EPA Region 4 to incorporate federal requirements for Fine Particulate Matter (PM_{2.5}). Revisions were made to the Prevention of Significant Deterioration (PSD) and New Source Review (NSR) regulations in Chapter 335-3-14 to align ADEM's regulations with EPA's regulations and requirements as published on December 31, 2002, November 29, 2005, May 16, 2008, and October 20, 2010.

In the preamble to the May 16, 2008, final rule, EPA included preferred or presumptive offset ratios for specific PM_{2.5} precursors that states could adopt in conjunction with the new interpollutant offset provisions for PM_{2.5}. These ratios were subsequently the subject of a petition for reconsideration, which the EPA Administrator granted. Therefore, EPA no longer supports the ratios as presumptively approvable for adoption in SIPs containing nonattainment NSR programs for PM_{2.5}.

On January 22, 2013, the United States Court of Appeals for the District of Columbia Circuit (Court) granted a request from EPA to vacate and remand to the EPA the portions of the PSD PM_{2.5} rules addressing the Significant Impact Levels (SILs) for PM_{2.5} (found in paragraph (k)(2) in 40 CFR 51.166 and 52.21), as well as other portions, so that EPA could voluntarily correct an error in the provisions. On December 9, 2013, EPA issued a final rulemaking to remove the vacated/remanded SILs and other provisions from the federal PSD regulations (78 FR 73698).

Due to the Court's decision to grant EPA's request to vacate and remand the portions of the PM_{2.5} rules addressing the SILs for PM_{2.5}, the intended purpose of ADEM's May 2, 2011, SIP revision to be consistent with federal regulations regarding these provisions, is no longer valid. Therefore, ADEM requests that this letter serve as its request to withdraw



Ms. Heather McTeer Toney

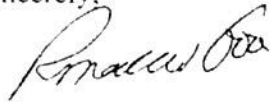
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October 9, 2014

the PM2.5 SILs and the interpollutant offset ratio portions of the State's May 2, 2011, SIP revision.

If you have any questions or comments, please contact Chris Howard of my staff at (334) 271-7878.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald W. Gore". The signature is fluid and cursive, with the first name "Ronald" being more prominent.

Ronald W. Gore, Chief
Air Division

RWG/ADH/bdc



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Ms. Heather McTeer Toney

2

October 9, 2014

the PM2.5 SILs and the interpollutant offset ratio portions of the State's May 2, 2011, SIP revision.

If you have any questions or comments, please contact Chris Howard of my staff at (334) 271-7878.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald W. Gore". The signature is fluid and cursive, with the first name "Ronald" being more prominent.

Ronald W. Gore, Chief
Air Division

RWG/ADH/bdc

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April 16, 2013

CERTIFIED MAIL NO.: 91 7199 9991 7030 3432 8248

Ms. Gwendolyn Keyes Fleming
Regional Administrator
EPA Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960



Dear Ms. Fleming:

On August 23, 2012, the Department submitted a letter to EPA certifying that Alabama's existing SIP meets the infrastructure SIP requirements for the 2008 Ozone NAAQS. In this submittal ADEM addressed the interstate pollution transport provision of the Clean Air Act, section 110(a)(2)(D)(i)(I). However, the D.C. Circuit Court's recent opinion in *EME Homer City Generation v. EPA*, 696 F.3d 7, 31 (D.C. Cir. 2012), concluded that the 110(a)(2)(D)(i)(I) SIP provision cannot be considered a "required" SIP element until EPA has defined a state's obligations pursuant to that section. Therefore, this letter is to notify EPA that the Department is withdrawing the 110(a)(2)(D)(i)(I) portion of the August, 2012, submission.

Please let me know if further clarification is needed.

Sincerely,

Lance R. LeFleur
Director

LRL/RWG:mmm/bdc

cc: Scott Davis

CERTIFIED MAIL NO.: 91 7199 9991 7030 3432 8231

Beverly Bannister

CERTIFIED MAIL NO.: 91 7199 9991 7030 3432 8224

Lynorae Benjamin

CERTIFIED MAIL NO.: 91 7199 9991 7030 3432 8217

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August 23, 2016

Heather McTeer Toney
Regional Administrator, EPA Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Dear Ms. Toney:

This letter refers to two issues involving proposed changes to Alabama's SIP. In one instance, we are asking that a previously requested change be withdrawn, and that in the second instance a request for revision previously "on hold" be acted on by EPA.

On July 20, 2011 EPA finalized the biomass deferral rule, which tolled the applicability of CO₂ emissions from biogenic sources under the PSD program for a period of three years, to end on July 21, 2014. On May 8, 2013 ADEM submitted to EPA revisions to its regulations, proposing their inclusion to Alabama's SIP. Included with these revisions were the addition of biomass deferral provisions to ADEM's greenhouse gas definition, ADEM Administrative Code r. 335-3-14-.04(2)(zz). However, on July 12, 2013 the U.S. Court of Appeals for the District of Columbia vacated the biomass deferral rule. Due to the vacatur, EPA had no basis to approve ADEM's SIP revision request to incorporate the biomass deferral rule language to Alabama's SIP. The deferral date of July 21, 2014 has passed and Alabama has since removed the biomass deferral language from its rules, effective November 25, 2014.

Given that EPA has yet to act on the original request from May 8, 2013, to incorporate the biomass deferral language into the Alabama SIP, ADEM wishes to withdraw this portion of the requested SIP revision, as the language has already been removed from State rules.

On the second issue, on June 3, 2010 EPA finalized amendments to the federal PSD and Title V regulations, known as the Tailoring Rule, which changed the major source and significance level thresholds of GHG emissions subject to these regulations. ADEM modified its PSD and Title V regulations to be consistent with EPA's tailoring rule to include additional thresholds of 100,000 tons per year of GHGs for major source applicability and 75,000 tons per year of GHGs as a significance threshold, based on carbon dioxide equivalent (CO₂e) emissions.

On June 23, 2014 the U.S. Supreme Court issued its decision in *Utility Air Regulatory Group (UARG) v. EPA*, 134 S.Ct. 2427 (2014). The Court held that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD or Title V permit. The Court also held that PSD permits that are otherwise required (based on emissions of other pollutants) may continue to require limitations on GHG emissions based on the application of Best Available Control Technology.

On November 3, 2014 ADEM submitted to EPA for approval revisions to the construction permit regulations in Chapter 335-3-14 and Major Source Operating Permit rules in Chapter 335-3-16 to be

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consistent with the June 2014 U.S. Supreme Court decision. Appendix 1 was amended to be consistent with EPA's revision of global warming potential values for certain greenhouse gases. Through that rulemaking, ADEM deleted the major source applicability permitting thresholds for GHGs from its regulations but retained the significance threshold of 75,000 tons per year of CO₂e for PSD. ADEM also deleted the major source applicability permitting thresholds for Title V.

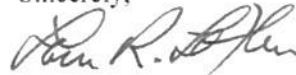
Due to ongoing litigation at the time of the November 3, 2014 submittal, ADEM requested that the rule revisions not be incorporated into the Alabama SIP at that time, with the caveat that the revisions could be incorporated into the SIP in the future should legal outcomes justify such action.

On April 10, 2015, in accordance with the June 2014 Supreme Court decision, the D.C. Circuit Court issued an amended judgment in *Coalition for Responsible Regulation, Inc. v. Environmental Protection Agency*, Nos. 09-1322, 10-073, 10-1092 and 10-1167 (D.C. Cir. April 10, 2015), which vacated the PSD and Title V regulations under review in that case to the extent that they require a stationary source to obtain a PSD or title V permit solely because the source emits or has the potential to emit GHGs above the applicable major source thresholds. The D.C. Circuit also directed EPA to consider whether any further revisions to its regulations are appropriate in light of UARG, and if so, to undertake to make such revisions. In response to the Supreme Court decision and the D.C. Circuit's amended judgment, on August 19, 2015 EPA took action to make the appropriate revisions to the PSD and operating permit rules (80 FR 50199).

Given the decisions handed down by the U.S. Supreme Court, the D.C. Circuit Court, and the rule revisions carried out by EPA to incorporate these decisions, ADEM requests that the State rule revisions submitted to EPA for approval in November 3, 2014 now be incorporated into the Alabama SIP.

If you have any questions, please call Ron Gore at 334-271-7868.

Sincerely,



Lance R. LeFleur
Director

LRL/DAH/ghe

cc: Beverly Banister, EPA Region 4